UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,927	06/27/2003	Vineet Gupta	0026-0153	8649

44989   7590   06/12/2007
HARRITY SNYDER, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX, VA 22030

EXAMINER
PHAM, KHANH B

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
06/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/607,927	GUPTA ET AL.
	Examiner	**Art Unit**	
	Khanh B. Pham	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 March 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>See Continuation Sheet</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,6-12,17-22,24,25,29-40,42,45-58,60,61,64-69,72-76,78,79 and 83-89</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/28/07</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20070604

Continuation of Disposition of Claims: Claims pending in the application are 1,6-12,17-22,24,25,29-40,42,45-58,60,61,64-69,72-76,78,79 and 83-89.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

3/28/2007 has been entered. Claims 1, 6-12, 17-22, 24-25, 29-40, 42, 45-58, 60-61, 64-

69, 72-76, 78-79, 83-89 are pending in this Office Action.

Specification

2.   The disclosure is objected to because of the following informalities: the phrases

"programming **country**" in page 8, lines 11-12 should be replaced with "programming

language".

       Appropriate correction is required.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

       Claims 1, 6-11, 24-25, 29-40, 60-61, 64-68, and 78 are rejected under 35

U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine

or a manufacture within the meaning of 35 USC 101. They are clearly not a series of

steps or acts to be a process nor are they a combination of chemical compounds to be

a composition of matter. As such, they fail to fall within a statutory category. They are, at

best, functional descriptive material *per se*.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   **Claims 1, 6-12, 17-22, 24-25, 29-40, 42, 45-58, 60-61, 64-69, 72-76, 78-79, 83-**

89 are rejected under 35 U.S.C. 102(e) as being anticipated by Zha (US 7,028,027 B1),

hereinafter "**Zha**".

As per claims 1, 24, Zha teaches a system comprising:

- "a country selector dynamically determining at least one preferred country

    applicable to search result responsive to a search query executed on information

in a data repository and provided from a plurality of search result countries" at

Col. 3 lines 52-67;

- "an interface characterizer determining the at least one preferred country using

  interface characteristics that comprise at least one country accepted by a user

  interface from which the search query was received" at Col. 6 lines 5-20;

- "a search result orderer determining an order for presenting the search results

  and adjusting the determined order for at least one of the search results among

  other ones of the search results based on whether the at least one of the search

  results is from the at least one preferred country" at Col. 3 lines 20-65;

- "a presenter representing the search results in the adjusted order" at Col. 3 line

  51.

As per claim 6, Zha teaches the system of claim 1, further comprising: "an

indexer ranking the search results" and "the search result orderer adjusting the ranking

of the at least one of the search results based on whether that at least one of the search

results is from the at least one preferred country" at Col. 3 lines 35-65.

As per claim 7, Zha teaches the system of claim 6, further comprising: "the

search result orderer demoting each search result from a country other than the at least

one preferred country and promoting each search result from the at least one preferred

country by at least one position" at Col. 3 lines 52-67.

As per claim 8, Zha teaches the system of claim 1, further comprising: "a scorer assigning a numerical score to the search results" and "the search result orderer adjusting the numerical score of the at least one of the search results from the at least one preferred country" at Col. 3 lines 35-50.

As per claim 9, Zha teaches the system of claim 8, further comprising: "the search result orderer increasing the numerical score assigned to the search results from the at least one preferred country and maintaining the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 3 lines 35-50.

As per claim 10, Zha teaches the system of claim 8, further comprising:

- "the country selector selecting at least one less preferred country" at Col. 8 lines 35-60;

- "the search result orderer adjusting the numerical score, comprising at least one of increasing the numerical score assigned to the search results from the at least on less preferred country and maintaining the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 5 lines 1-20.

As per claim 11, Zha teaches the system of claim 8, further comprising "the search result orderer sorting at least some of the search results with the adjusted numeric scores" at Col. 5 lines 10-15.

As per claim 12, Zha teaches a method comprising:

- "receiving a query" at Col. 1 lines 50-65;

- "performing a search based on the search query to identify search results from a plurality of search result countries" at Col. 1 lines 50-65;

- "dynamically determining at least one preferred country applicable to the search results using interface characteristics that comprise at least one country accepted by a user interface from which the search query is received" at Col. 6 lines 10-20;

- "ordering the search results" at Col. 3 lines 20-50;

- "adjusting the order of at least one of the search results among other ones of the search results based on whether the at least one of the search results is from the at least one preferred country" at Col. 3 lines 15-50

- "presenting the search results in the adjusted order" at Col. 3 line 51.

As per claim 17, Zha teaches the method of claim 12, further comprising: "ranking the search results" and "ordering at least some of the ranked search result relative to at least one preferred country" at Col. 3 lines 35-65.

As per claim 18, Zha teaches the method of claim 17, further comprising "demoting each search result from a country other than the at least one preferred country and promoting each search result from the at least one preferred country by at least one position" at Col. 3 lines 35-65.

As per claim 19, Zha teaches the method of claim 12, further comprising "assigning a numerical score to the search results and adjusting the numerical score of at least some of the search results from the at least one preferred country" at Col. 5 lines 1-20.

As per claim 20, Zha teaches the method of claim 19, further comprising: "increasing the numerical score assigned to the search results from the at least one preferred country and maintaining the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 5 lines 1-20.

As per claim 21, Zha teaches the method of claim 19, further comprising: "determining at least one less preferred country and adjusting the numerical score comprising decreasing the numerical score assigned to the search results from the at least one less preferred country and maintaining the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 3 lines 35-65.

As per claim 22, Zha teaches the method of claim 19, further comprising: "sorting at least some of the search results with adjusted numerical scores" at Col. 3 lines 45-50.

As per claim 25, Zha teaches a system comprising:

- "a parser receiving a search query" at Col. 1 lines 50-65;

- "an indexer executing a search by evaluating the search query against information from a plurality of countries that is maintained in a searchable data repository, and identifying search results based on the search" at Col. 1 lines 50-65;

- "a country promoter dynamically determining at least one preferred country applicable to the search results, ordering the search results, and adjusting the ordering of at least one of the search results among other ones of the search results based on whether the at least one of the search results is from the at least one preferred country" at Col. 3 lines 15-65;

- "a user interface characterizer determining a country accepted by a user interface" at Col. 6 lines 10-20;

- "a country selector selecting the country as the at least one preferred country" at Col. 6 lines 10-30..

As per claim 29, Zha teaches the system of claim 25, further comprising: "a search result orderer ordering the search results based on a match of a country of the search results to the at least one preferred country" at Col. 3 lines 25-65.

As per claim 30, Zha teaches the system of claim 29, further comprising: "the search result orderer demoting the search results from a country other than the at least one preferred country by a predefined shifting factor" at Col. 3 lines 50-65.

As per claim 31, Zha teaches the system of claim 30, wherein the predefined shifting factor substantially equals two" at Col. 5 lines 45-65.

As per claim 32, Zha teaches the system of claim 29, further comprising: "the search result orderer promoting the search results from a country other than the at least one preferred country by a predefined shifting factor" at Col. 3 lines 50-65.

As per claim 33, Zha teaches the system of claim 25, further comprising: "a scorer ordering each of the search results by a degree of match to the information in the searchable data repository" at Col. 5 lines 1-20.

As per claim 34, Zha teaches the system of claim 25, further comprising: "a country detector detecting a country associated with at least one of the search results" at Col. 7 lines 40-50.

As per claim 35, Zha teaches the system of claim 34, further comprising: " a hyperlink analyzer examining anchor text of hyperlinks to the search result document, text near the hyperlinks, or countries of the web pages with hyperlinks to the search result document" at Col. 7 lines 1-5.

As per claim 36, Zha teaches the system of claim 25, wherein "the search results are assigned a numerical score, the system further comprising: a search result orderer increasing the numerical score assigned to at least some of the search results from the at least one preferred country" at Col. 5 lines 1-20.

As per claim 37, Zha teaches the system of claim 36, wherein the numerical score is adjusted in accordance with the formula: "$S_i = S_i + 1 / 2$ where S_i comprises the numerical score for each search result i" at Col. 5 lines 60-65.

As per claim 38, Zha teaches the system of claim 25, wherein the search results are assigned a numerical score, the system further comprising: a search result orderer decreasing the numerical score assigned to at least some of the search results from the at least one preferred country" at Col. 3 lines 35-65.

As per claim 39, Zha teaches the system of claim 25, further comprising "a presenter presenting the search results in the adjusted order" at Col. 3 line 51.

As per claim 40, Zha teaches the system of claim 39, further comprising "the

presenter performing at least one of controlling enablement of presentation of at least

some of the search results for each of the at least one preferred country, grouping

together at least some of the search results for each of the at least one preferred

country, or arranging at least some of the search results for each of the at least one

preferred country next to at least some of the search results for at least one country

other than the at least one preferred country prior to presentation to the user" at Col. 3

lines 35-51.

Claims 42, 45-58, 60-61, 64-69, 72-76, 78-79, 83-89 recite similar limitations

discussed above and therefore are rejected by the same reasons.

Double Patenting

6.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees.   A nonstatutory
obviousness-type double patenting rejection is appropriate where the conflicting claims
are not identical, but at least one examined application claim is not patentably distinct
from the reference claim(s) because the examined application claim is either anticipated
by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140
F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29
USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.
1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422
F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163
USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7.   Claims 1, 12, 25, 42, 61, 69, 78, are provisionally rejected on the ground of

nonstatutory obviousness-type double patenting as being unpatentable over claims 5,

18, 30, 52, 75, 87, 100 of copending Application No. 10/407,476 in view of Zha

(US7,028,027 B1).

Although the conflicting claims are not identical, they are not patentably distinct

from each other because claims of instant application are essentially the same as

claims of copending application 10/407,476, except that it recites "preferred country"

instead of "preferred language". However, the relationship between "country" and

"language" are well known, one can be used to infer another, and is often used

interchangeably, as shown in Zha at Col. 8 lines 30-65. For example, user's selection of

Japanese as preferred language or Japan as preferred country will have the same

effect. Thus, it would have been obvious to replace "preferred language" with "preferred

country" without changing the scope of the claimed invention.

This is a <u>provisional</u> obviousness-type double patenting rejection.

Response to Arguments

8.   Applicant's arguments with respect to the 102(e) based upon Lampson have been considered but are moot in view of the new ground(s) of rejection.

9.   Applicant's arguments regarding the 101 rejection have been fully considered but they are not persuasive. The examiner respectfully traverse applicant's arguments.

Applicants argued that claims 1, 6-11, 24, 25, 29-41, 60, 61, 64-68, and 78 because they are directed to a "machine", which is one of the four categories of patentable subject matter. However, as stated in the 101 rejection above, the claims **lack the necessary physical articles or objects to constitute a machine** or a manufacture within the meaning of 35 USC 101. For example, the machine of claim 1 comprises four components: "a country selector", "an interface characterizer", "a search result orderer" and "a presenter", wherein each components is defined in the specification at page 8 lines 10-15 as "a computer program, procedure or process written as source code in a conventional programming [language], such as C++ programming [language]". Thus, the machine of claim 1 is therefore merely a set of C++ codes and lack the necessary physical articles to constitute a machine or a manufacture.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although

the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the Claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is **(571) 272-3574** for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-4116. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Khanh B. Pham
Primary Examiner
Art Unit 2166

June 6, 2007